

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**Fort Worth, Texas**

**LOOMIS, FARGO & CO.<sup>1</sup>**

**Employer**

**and**

**Case No. 16-RC-10609**

**CURRENCY AND SECURITY  
HANDLERS ASSOCIATION (CASHA)<sup>2</sup>**

**Petitioner**

**and**

**SECURITY POLICE FIRE  
PROFESSIONALS OF AMERICA**

**Intervenor**

**SUPPLEMENTAL DECISION AND DIRECTION OF ELECTION**

The Petitioner, Currency and Security Handlers Association (CASHA), filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act on September 13, 2004. A hearing was conducted on September 23, 2004, and a Decision and Direction of Election issued on October 5, 2004, ordering an election be held in a unit that includes all Fort Worth driver guards and excludes vault employees and supervisors as defined by the Act.

On October 11, 2004, the Security Police Fire Professionals of America (SPFPA) filed a request to intervene in the election. This request was supported by the required showing of interest.

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<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> The Petitioner's name appears as amended at the hearing.

Subsequent to SPFPA's filing of its motion, the Employer raised, by letter, three issues. First, the Employer argues that SPFPA's motion to intervene is untimely and should, therefore, be denied. Second, it challenges the status of SPFPA as a labor organization under Section 2(5) of the Act. Lastly, it requests that the Board clarify the status of ATM Service Technicians in relation to the bargaining unit as defined in the original Decision and Direction of Election. The Petitioner does not object to the intervention of SPFPA or contest its status as a labor organization.

Because I find SPFPA to be a labor organization as defined by the Act and because it has timely presented a showing of interest to intervene that predates the hearing in this case and because the Employer has failed to show cause to reopen the record, I grant the Intervenor's motion to intervene. Additionally, based on evidence adduced from the record, ATM Service Technicians will be included in the bargaining unit and will be permitted to vote in the election.

#### **Timeliness of SPFPA's Motion to Intervene**

A motion to intervene is permitted after the close of a hearing only to the extent that the intervening union's evidence of interest predates the close of the hearing. *Mayfair Industries*, 126 NLRB 223 (1960); NLRB Case-Handling Manual, Part Two, 11026.2(b). In support of its motion, the SPFPA provided the Board with a sufficient showing of interest that predates the hearing held September 23, 2004. Because this evidence demonstrates that the showing of interest for SPFPA predates the hearing in this case, I will grant Intervenor's motion to intervene. Additionally, because the Employer has failed to show good cause why the record should be reopened, I order the election in this matter be held as scheduled.

#### **SPFPA's Status as a Labor Organization**

Section 2(5) of the National Labor Relations Act defines a labor organization as "any organization of any kind, or any agency or employee representation committee or plan, in which

employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.” The Board found SPFPA to be such a labor organization in *Northwest Protective Services, Inc.*, 342 NLRB No. 120, Slip Op. at 10 (2004), in which SPFPA sought to represent the guard employees of an employer that provided security services. Additionally, the Board has previously certified SPFPA as a bargaining representative. See *Southwestern Security Services*, Case 16-RC-10380 and *Deco, Inc. d/b/a Deco Security Services*, Case 16-RC-10428. The Employer has offered no evidence to contravene SPFPA’s status as a labor organization. Because the Board has found SPFPA to be a labor organization and has previously certified it as a bargaining representative, I find SPFPA to be a Section 2(5) labor organization.

#### **Inclusion of ATM Service Technicians in the Bargaining Unit**

In the original Decision and Direction of Election, I found an appropriate bargaining unit to include all driver guards at the Employer’s Fort Worth facility and to exclude all vault employees and supervisors as defined by the Act. Because of differing job titles used in its operation, the Employer seeks to clarify whether ATM Service Technicians are driver guards for purposes of the representation election.

At hearing, the North Texas Area General Manager for the Employer, when asked whether the “job of a service technician was the same job as a driver guard,” responded that the job performed by the service technician was “inclusive of a driver guard, but there’s also the specialty of ATM.” (Tr. 30). Furthermore, Employer’s counsel, when asked on the record if ATM service technicians were driver guards, stated, “yes, they are.” (Tr. 29). Based on these statements made by representatives of the Employer on the record, I conclude that ATM Service Technicians are driver guards, and therefore, will include them in the bargaining unit.

## CONCLUSION AND FINDINGS

Based on the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The parties stipulated, and I find, that the Employer, a Texas corporation, is engaged in the business of cash-handling services in Fort Worth, Texas. During the past 12-month period, it purchased and received goods valued in excess of \$50,000 directly from suppliers outside the state of Texas. Based on the foregoing, I find the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner and Intervenor claim to represent certain employees of the Employer.
4. The Petitioner and the Intervenor are labor organizations as defined by Section 2(5) of the Act.
5. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
6. The following employees of the Employer constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:  
  
**Included:** All driver guards, including ATM Service Technicians, employed by the Employer at its Fort Worth location.  
  
**Excluded:** All other employees, including vault employees and supervisors as defined by the Act.

## **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether they wish to be represented for purposes of collective bargaining by the Currency and Security Handlers Association (CASHA) or the Security Police Fire Professionals of America (SPFPA) or do not wish representation.

The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

### **A. Voting Eligibility**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election.

### **B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Fort Worth Regional Office, Federal Office Building, Room 8A24, 819 Taylor Street, Fort Worth, Texas 76102 on or before October 29, 2004. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at 817-978-2928. Because the list will be made available to all parties to the election, please furnish a total of **three** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

### **C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must

post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5:00 p.m., EST on November 5, 2004. The request may **not** be filed by facsimile.

Dated: October 22, 2004

**/s/ Curtis A. Wells**

Regional Director  
National Labor Relations Board  
Region 16  
819 Taylor Street - Room 8A24  
Fort Worth, TX 76102